

News Notes

of the Central Committee for Conscientious Objectors

Right to personal advisor denied

Hearing officers err

Two conscientious objectors have reported to CCCO within recent months that they were denied the right to have personal advisors sit with them through their entire hearings before the special hearing officers appointed by the Department of Justice to hear individual CO appeals.

In the first incident the CO failed to remind the hearing officer of his right when the officer began the hearing without inviting the advisor into the hearing. The CO was not alert to his rights. However, CCCO takes the position that the hearing officer is obligated to orally remind the CO of this right before the hearing commences.

In the second reported incident the CO did protest the hearing officer's refusal to allow his advisor to be present throughout the entire hearing. He was informed by the hearing officer that his witnesses could be heard, but that none were entitled to sit through the entire hearing. The CO allowed the hearing to proceed, but noted in the record the denial of his right.

All conscientious objectors who are appealing for a CO classification are reminded of their right to have an attorney, a friend, or other advisor present during the entire hearing which is accorded each CO before a special hearing officer of the Department of Justice. In addition, the CO may bring other witnesses to be heard by the hearing officer on his behalf.

Department of Justice instructions to the special hearing officers (Memorandum #41, Revised, April 2, 1956) states in Sec. 104.5 that "The hearing officer shall permit the registrant to have one attorney or other personal advisor, who may sit with the registrant during the hearing. Neither the registrant's advisor nor any other person shall be permitted to object to any question or make any argument concerning any phase of the proceeding." Section 104.6 of the same memorandum states that "Within the discretion of the hearing officer, the registrant's witnesses may remain in the hearing room, or they may be excluded and called one at a time. *One personal advisor, however, may remain with the registrant in the hearing room during the entire proceeding.*" (italics supplied).

The Department of Justice requires the special hearing officer when fixing the time and place of the hearing to

mail the CO a "Notice of Hearing and Instructions" which advises the CO of the nature and purpose of the special hearing. Section 6 of this notice includes the statement that "in addition to his witnesses, the registrant may have an attorney, relative, friend, or other advisor present at the hearing."

CCCO advises the CO to take a personal advisor with him to his Department of Justice hearing. If the hearing officer refuses him the right to have his advisor present throughout the entire hearing, the CO should protest and note the denial in the record in writing. CCCO requests that all such irregularities be reported to it promptly. The Department of Justice and the hearing officers involved have been advised of these two incidents. T. Oscar Smith, Chief of the CO Section in the Justice Department, turned down CCCO's suggestion that all special hearing officers be reminded of the CO's right to have an advisor present. Smith wrote that the two incidents "are so isolated that we could not justify the expense of circularizing some 300 hearing officers to remind them of a fact which they already presumably know." He agreed that this right of a registrant is an important one and promised to make "every reasonable effort to see that hearing officers comply with the instructions on this point."

Civil defense review denied

The U. S. Supreme Court refused on January 16 to review the conviction of a group of pacifists in New York City who violated the state's civil defense law by remaining in a park after being ordered by public authorities to take shelter in air raid tests in 1955 and 1956. (See NEWS NOTES, January-February, 1960)

In an 8 to 1 *per curiam* unsigned opinion, the Supreme Court held that the issues presented in the civil defense test case were not sufficient to warrant its review. The dissenting vote was cast by Justice William O. Douglas who held that "probable jurisdiction" should be noted by the court. The refusal of the U. S. Supreme Court to review the case, in effect, is to uphold the constitutionality of the New York State Defense Emergency Act which empowers the State to compel people to take shelter during an air raid drill.

COs work for peace

John Salzberg, New York City CO, recently began two years of civilian work as a research assistant for the Research Program on Economic Adjustments to Disarmament. The research program, located in New York City, is sponsored by the Center for Research on Conflict Resolution at the University of Michigan and is financed by the Carnegie Corporation and the Ford Foundation.

Salzberg's first attempt to secure approval of this work was denied by Col. Paul Akst, New York City Director of Selective Service, on the ground that the research agency was not permanent and that the position open was not definitely available for a two-year period. After further correspondence with Col. Akst, approval was finally granted.

CCCCO recently received information confirming the assignment of Peter Espenschied (CO from Metuchen, New Jersey) as a research associate on the project staff of the Arctic Institute of North America, which is affiliated with the National Science Foundation. As part of his work he will spend at least one year at a three-man observing station near the Antarctic Byrd Station.

Espenschied was informed last summer that his proposed employment could not be approved by Selective Service since the Arctic Institute was not on the list of approved employers. The Institute applied to the National Director of Selective Service for approval of the Antarctic Research Program as acceptable civilian work for Espenschied. Selective Service finally approved Espenschied's choice of civilian work.

The draft law establishes two requirements for civilian work performed by recognized conscientious objectors in lieu of two years of military duty. The work must be with a governmental agency or a non-profit organization; it cannot be with a private company. And, secondly, the work must contribute to the national health, welfare, and interest. To these two requirements Selective Service has added a third, that the employer must be approved by Selective Service.

Selective Service has issued a "list of agencies approved for employment of conscientious objectors" consisting almost entirely of hospitals and other types of custodial institutions. We estimate that 80% of the 7,500 I-W conscientious objectors who have or are now performing civilian draft work have done so in mental hospitals, general hospitals, and other such institutions. Most of these men have performed their required civilian work well and have found considerable satisfaction in their labor.

In counseling hundreds of COs we think there has always been a tendency in Selective Service to funnel COs into civilian work which is poorly paid and quite unimaginative. We have known of cases where draft boards have ordered COs to particular jobs in disregard of the CO's

own choice. In some states, for instance, the State director of Selective Service refuses to approve teaching as appropriate civilian work. Yet teachers are still in short supply and many COs have college degrees and are qualified to teach.

It was not the intention of Congress in providing recognized COs with the alternative of civilian work to punish them. The intention, we think, was to fully utilize their abilities in service to the country in a manner that did not violate individual conscience.

CCCCO advises the CO seeking civilian work to find a job that is suitable to his interests, skills, and training, and which meets the two basic requirements of the law and submit this request to his draft board for their approval. If the CO patiently insists, we believe that Selective Service must approve his choice even if the employer is not on the so-called list of agencies approved for the employment of COs.

Two released from ROTC

Two conscientious objectors have been released from Reserve Officer Training Corps in two different universities recently for refusal to sign the oath of allegiance to defend the Constitution of the United States against its foreign and domestic enemies.

Tom Kahn, New York City, applied for exemption as a CO from the Air Force ROTC at Harvard University, Washington, D.C. His application was denied by Lt. Col. Thomas J. Money and he was informed that he must secure a CO classification from his draft board before he could be exempted. Col. Money then presented Tom Kahn with the oath of allegiance. When Kahn declined to take the oath, Col. Money approved his exemption on the ground that he was opposed to military training and refused to take the oath which is a prerequisite for enrollment in AFROTC. Tom Kahn is now enrolled at Howard University.

Jeff Siegel was admitted to the University of California at Goleta last fall even though he refused to sign the oath of allegiance demanded of him for admission to ROTC. Siegel's application for exemption from ROTC as a conscientious objector previously had been refused by university authorities.

The ROTC officer informed Siegel that the Army would not permit him to teach ROTC to anyone who claimed to be and was a CO, and who refused to sign the oath of allegiance. The University of California which has refused consistently to exempt conscientious objectors from ROTC suddenly found itself in the position of demanding that Siegel take ROTC but with the military department of the University refusing to enroll the man. The University granted Siegel a waiver of the requirement for the time being.

Briefly noted

Daniel Seeger, New York City CO who refused induction into the armed forces last October (See NEWS NOTES, December, 1960) has written a detailed report of his experiences at the induction center. CCCO has reproduced Seeger's report as part of its educational and information service to COs, their advisors, parents, and others interested in COs problems. Free copies available from CCCO upon request.

R. T. Wasson Jr., Mukilteo, Washington, was released from the Naval ROTC program at Harvard University last summer after two and one-half years participation. In November he was granted an honorable discharge from the U. S. naval reserve on grounds of conscientious objection. He writes that it was only gradually that "the implications of military service changed for me until I could no longer accept the duties of an officer candidate. Linus Pauling's *No More War!*, the AFSC's *Speak Truth to Power*, and the writings of Simone Weil and Mahatma Gandhi were particularly helpful in defining and giving direction to my conviction of the immorality of war."

When a Marine Corps recruiting team recently set up a booth to display literature on the campus of Guilford College, the only Quaker college in North Carolina, a group of pacifist students set up a booth alongside and distributed leaflets about Christian pacifism and other anti-war literature. *Frederick L. Moore, Jr.*, 19-year-old freshman from Fillmore, California who conducted a one-man fast against compulsory ROTC at the University of California last year, stated that the Marines were recruiting young men to become "machines of destruction."

Lawrence M. White, recently discharged as an ensign from the U. S. Navy because of conscientious scruples against war (See NEWS NOTES, December, 1960) has accepted appointment as assistant administrative secretary on the staff of the Friends Committee on National Legislation in Washington, D.C.

Thomas Barton Jr., Bloomington, Indiana CO, is now performing his two years of compulsory civilian draft duty with the Friends Peace Committee in Philadelphia. Last summer Barton refused to obey an illegal induction order and later had his classification reopened. (See NEWS NOTES, October-November, 1960)

The December, 1960 issue of the *Journal of College Placement* contains an article entitled "How Do You Counsel a Conscientious Objector?," written by *Robert F. Hoppock*, professor of education, New York University, New York City.

New physical required

Any registrant who has not had a preinduction physical examination within one year of the date he is scheduled for induction must be given another preinduction physical examination before an induction order can be issued. This policy was recently set forth in a letter from the National Director of Selective Service to all the state directors.

This new policy also applies to registrants who are classified I-O. Thus, before an order to report for civilian work can be issued to a I-O man, he must have been given a preinduction physical examination within one year from the scheduled date of the civilian work order.

Selective Service announced that this policy of re-examination of registrants is designed to reduce the number of instances where registrants have quit jobs or sold property, and then have been rejected for military duty at the induction station.

Another reservist discharged

Mark Williamson, Chattanooga, Tennessee, was granted an honorable discharge from the U. S. Army Reserves on January 10. Williamson had served two years in the Army as a noncombatant and had been discharged in August, 1960. In October he requested discharge from further reserve duty on grounds of conscientious objection to all military duty. At the same time he filed the special CO form with his draft board.

The honorable discharge releasing Williamson from the reserves was under new authority of revised Army Regulation 140-178, paragraph 4n(3) which specifically authorizes the discharge of conscientious objectors from reserve duty.

When Williamson received an order from his reserve unit to report for 45 days active duty he submitted a second request for discharge from the reserves. Along with this request he submitted a letter from his draft board stating that they would have classified him a I-O (conscientious objector opposed to all military duty) had they had the information about his CO beliefs prior to his induction in 1958. With this "advisory opinion" from the local board the Army reserves granted an honorable discharge without further delay.

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Phoenix skipper freed

The U. S. Court of Appeals in San Francisco reversed the conviction of Earle L. Reynolds, captain of the yacht *Phoenix*, charged with sailing into the U. S. Pacific bomb test area in the summer of 1958. Reynolds had been found guilty of violating the Atomic Energy Commission Act and had been sentenced to six months in prison and 18 months on probation. Reynolds and his family sailed *Phoenix* from Honolulu into the Central Pacific H-bomb test area after the voyage of Golden Rule was interrupted by the jailing of its entire crew.

In reversing the conviction the Circuit Court held that the government had obtained Reynolds' conviction under a regulation which was not authorized in the act creating the AEC. The court stated that Reynolds might be tried for mere trespass under another regulation.

At the present time it is not known whether the government will appeal the decision, reindict Reynolds on a trespass charge, or drop further action. For the time being Earle Reynolds is continuing his teaching at a women's college in Hiroshima, Japan.

The Court Reporter

Prosecutions

Sentenced since last issue (none reported)

Arrests

Arizona—Jerry Wheeler
Conn.—Robert Swann

Released from prison

(none reported)

Currently imprisoned

Allenwood, Pa.—Levi L. Hershberger, David W. Miller, Eli J. Miller, Daniel N. Swartzentruber, Benjamin C. Yoder
Sandstone, Minn.—Robert E. McGrath, Neil Haworth, Hiram C. Holdridge Jr., Larry Shumm
Tallahassee, Fla.—Hubert Dexine Sprinkle

Total number of COs convicted of Selective Service violations since 1928 to date, 363. This is a minimum number; Jehovah's witnesses and Muslims are not included, and we miss a few.

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